

111TH CONGRESS
1ST SESSION

H. R. 421

To amend the Emergency Economic Stabilization Act of 2008 to restrict which assets banks can write off as loss for purposes of the Troubled Assets Relief Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2009

Mr. MEEK of Florida introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Emergency Economic Stabilization Act of 2008 to restrict which assets banks can write off as loss for purposes of the Troubled Assets Relief Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Troubled Assets Relief
5 Program Targeted Assets Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 Section 3 of the Emergency Economic Stabilization
8 Act of 2008 (division A of Public Law 110–343) is amend-

1 ed by striking paragraph (9) and inserting the following
2 new paragraphs:

3 “(9) TROUBLED ASSETS.—The term ‘troubled
4 assets’ means—

5 “(A) any residential mortgage, and any se-
6 curity, obligation, or other instrument that is
7 based on or related to such mortgage—

8 “(i) is in pre-foreclosure;

9 “(ii) with respect to which the bor-
10 rower has missed at least 2 payments with-
11 in the last 6 months; or

12 “(iii) which is in forbearance; or

13 “(B) any other financial instrument that
14 the Secretary, after consultation with the Chair-
15 man of the Board of Governors of the Federal
16 Reserve System, determines the purchase of
17 which is necessary to promote financial market
18 stability, but only upon transmittal of such de-
19 termination, in writing, to the appropriate com-
20 mittees of Congress.

21 “(10) REHABILITATED MORTGAGE.—The term
22 ‘rehabilitated mortgage’ means a mortgage which
23 has been restructured, refinanced or otherwise modi-
24 fied to lower the borrower’s monthly payment—

1 “(A) creating a front-end debt ratio, in-
2 cluding the cost of mortgage principal, interest,
3 taxes, and insurance, of no more than 30 per-
4 cent of the gross monthly income of the bor-
5 rower; or

6 “(B) to a term deemed affordable by the
7 borrower after full disclosure by the lender and
8 pursuant to rules as may be established by the
9 Secretary.

10 “(11) INDEPENDENT APPRAISER.—The term
11 ‘independent appraiser’ means a person who—

12 “(A) is licensed pursuant to the laws and
13 regulations of the State where the person prac-
14 tices;

15 “(B) is disclosed to the borrower or buyer;
16 and

17 “(C) is not coerced, extorted, induced, in-
18 timidated, bribed or otherwise influenced by or
19 in collusion with the mortgage lender, mort-
20 gaged broker, mortgage banker, real estate
21 broker, appraisal management company or
22 other persons or companies having a vested in-
23 terest in the transaction.”.

1 **SEC. 3. LIMIT ON AUTHORITY TO WRITE OFF LOSSES.**

2 Section 101 of the Emergency Economic Stabilization
3 Act of 2008 (division A of Public Law 110–343) is amend-
4 ed by striking subsection (a) and inserting the following
5 new subsection:

6 “(a) AUTHORITY.—

7 “(1) IN GENERAL.—The Secretary is authorized
8 to establish the Troubled Asset Restoration and As-
9 sistance Program (hereafter in this title referred to
10 as the ‘TARAP’) to allow the Treasury to purchase
11 lender or servicer ‘losses’ on rehabilitated mortgages,
12 on such terms and conditions as are defined in this
13 Act and determined by the Secretary.

14 “(2) AUTHORITY TO PURCHASE.—Through the
15 TARAP, the Treasury shall pay up to 80 percent of
16 the difference between the original asset and the re-
17 habilitated asset to the lender or servicer under cer-
18 tain conditions.

19 “(3) WRITE OFF OF REMAINDER.—That por-
20 tion of the difference between the original asset and
21 the rehabilitated asset to the lender or servicer that
22 is not paid for by the Secretary under paragraph (2)
23 may be written to loss.”.

24 **SEC. 4. REGULATIONS AND GUIDELINES.**

25 Section 101(c) of the Emergency Economic Stabiliza-
26 tion Act of 2008 (division A of Public Law 110–343) is

1 amended by striking paragraph (5) and inserting the fol-
2 lowing new paragraphs:

3 “(5) Issuing such regulations and other guid-
4 ance as may be necessary or appropriate to define
5 terms or carry out the authorities or purposes of
6 this title including determining qualifications for an
7 independent appraiser, making the final determina-
8 tions as to whether an asset is troubled, what the
9 values are that will determine the amount of pur-
10 chase, the amount of reductions in the purchase
11 price for purposes of subsection (d)(2), and any
12 other functionality issues required to operate the
13 program.

14 “(6) Conforming to guidelines established in
15 subsection (g), the Secretary is authorized to make
16 all necessary rules and determinations regarding
17 documented best efforts, required timelines, and
18 other processes and procedures.”.

19 **SEC. 5. ELIGIBLE ASSET.**

20 Section 101 of the Emergency Economic Stabilization
21 Act of 2008 (division A of Public Law 110–343) is amend-
22 ed—

23 (1) by striking subsection (d);

24 (2) by redesignating subsection (e) as sub-
25 section (i); and

1 (3) by inserting after subsection (c) the fol-
2 lowing new subsections:

3 “(d) ELIGIBLE ASSETS.—

4 “(1) IN GENERAL.—An asset is eligible for
5 TARAP if—

6 “(A) it is the borrower’s primary residence;

7 and

8 “(B) it—

9 “(i) is a troubled asset, as defined in
10 section 3(9); or

11 “(ii) it was a troubled asset but has
12 been rehabilitated by the servicer or lender
13 (as defined in section 3(10)) on or after
14 October 3, 2008, and allowing the bor-
15 rower to remain in the borrower’s home.

16 “(2) ASSETS NOT INCLUDED.—An asset is not
17 eligible for TARAP if—

18 “(A) it was valued at more than 150 per-
19 cent of the current fair market value; and

20 “(B) the original value was assessed solely
21 by the lender’s appraiser,

22 unless the servicer or lender agrees to such reduc-
23 tion in the purchase amount as the Secretary may
24 require as a condition for the purchase.

1 “(f) ELIGIBLE LENDER OR SERVICER.—A lender or
2 servicer is eligible for TARAP assistance if—

3 “(1) the lender or servicer has agreed to full
4 disclosure requirements as may be established by the
5 Secretary; or

6 “(2) the lender or servicer has agreed to use an
7 independent appraiser and standard appraisal prac-
8 tices as may be established by the Secretary;

9 “(g) PROGRAM GUIDELINES.—

10 “(1) TARAP shall pay a servicer or lender up
11 to 80 percent of the difference between the original
12 asset and rehabilitated asset pursuant to such regu-
13 lations as may be prescribed by the Secretary.

14 “(2) The servicer or lender shall use docu-
15 mented best efforts, prior to foreclosure, to work
16 with the borrower to create an affordable front-end
17 debt ratio of up to 30 percent of the borrower’s
18 gross monthly income.

19 “(3) The Secretary may establish mechanisms
20 to provide for those assets which cannot be rehabili-
21 tated under the preceding guidelines.

22 “(h) PROGRAM TERMINATION.—All authority under
23 this section ceases no later than December 31, 2009.”.

1 **SEC. 6. DEFERRAL OF ALL FORECLOSURES ON ANY PRIN-**
2 **CIPAL DWELLING OF A CONSUMER FOR A 90-**
3 **DAY PERIOD.**

4 (a) IN GENERAL.—Notwithstanding any provision of
5 any State or Federal law, after the date of the enactment
6 of this Act, no creditor, servicer, or holder of such mort-
7 gage, or any other person acting on behalf of any such
8 creditor, servicer, or holder, may take any action to ini-
9 tiate a foreclosure, whether judicial or nonjudicial, or any
10 action in connection with a foreclosure already instituted
11 other than to suspend such foreclosure, with respect to
12 any eligible mortgage of a consumer, until the end of the
13 90-day period beginning on the date of the enactment of
14 this Act.

15 (b) ACTION BY CONSUMER.—

16 (1) IN GENERAL.—After the date of the enact-
17 ment of this Act, any consumer shall have the right
18 to defer any initiation of a foreclosure, whether judi-
19 cial or nonjudicial, or any action in connection with
20 a foreclosure already instituted, including any fore-
21 closure sale, with respect to any eligible mortgage by
22 any creditor, servicer, or holder of such mortgage, or
23 any other person acting on behalf of any such cred-
24 itor, servicer, or holder, until the end of the 90-day
25 period beginning on the date of the enactment of
26 this Act.

1 (2) ENFORCEMENT OF RIGHT.—Any consumer
2 may defend against a foreclosure or bring an action
3 in any court of competent or general jurisdiction to
4 compel compliance with the right of the consumer
5 under paragraph (1) to defer any initiation of a
6 foreclosure or any action in connection with a fore-
7 closure already instituted, including any foreclosure
8 sale, with respect to any eligible mortgage.

9 (c) RULE OF CONSTRUCTION.—No provision of this
10 section shall be construed as affecting or altering the obli-
11 gations of the consumer under the terms of the eligible
12 mortgage notwithstanding any deferral of foreclosure.

13 (d) ELIGIBLE MORTGAGE DEFINED.—For purposes
14 of this section, the term “eligible mortgage” means any
15 residential mortgage loan to any consumer that con-
16 stitutes a first lien on the dwelling or real property secur-
17 ing the loan which constitutes, or on which is located, the
18 principal residence of the consumer.

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